

Assembly Bill No. 2293

CHAPTER 638

An act to add and repeal Section 25600.5 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 30, 2008. Filed with
Secretary of State September 30, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2293, De Leon. Alcoholic beverage licensees.

Existing provisions of the Alcoholic Beverage Control Act generally prohibit manufacturers, winegrowers, bottlers, importers, wholesalers, and others from performing certain activities, with specified exceptions.

This bill would, until January 1, 2014, permit a manufacturer, winegrower, rectifier, or distiller, or any authorized agent of that person to provide, free of charge, entertainment, food, and distilled spirits, wine, or nonalcoholic beverages to consumers over 21 years of age at an invitation-only event in connection with the sale or distribution of wine or distilled spirits, as specified. This bill would authorize the Department of Alcoholic Beverage Control to impose a fee to cover the costs of administering the events authorized by this bill.

The Alcoholic Beverage Control Act provides that a violation of specified provisions of the act is punishable as a misdemeanor. This bill, by including provisions that would be subject to those existing criminal sanctions, would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 25600.5 is added to the Business and Professions Code, to read:

25600.5. Notwithstanding any other provision of this division, a manufacturer of distilled spirits, winegrower, rectifier, or distiller, or its authorized unlicensed agent, may provide, free of charge, entertainment, food, and distilled spirits, wine, or nonalcoholic beverages to consumers at an invitation-only event in connection with the sale or distribution of wine or distilled spirits, subject to the following conditions:

(a) No licensee, other than those specified in this section, may conduct or participate in any portion of an event authorized by this section. A licensee authorized to conduct an event pursuant to this section shall not be precluded from doing so on the basis of holding any other type of alcoholic beverage license.

(b) An event authorized by this section shall be conducted on premises for which a caterer's permit authorization has been issued, except that any event held on the premises of a licensed winegrower shall not be authorized to provide any distilled spirits other than brandy.

(c) No event authorized by this section shall be conducted on premises for which a permanent retail license has been issued.

(d) Except for fair market value payments authorized pursuant to this section, a licensed caterer shall not receive any other item of value or benefit in connection with events authorized by this section.

(e) The person authorized by this section to provide, free of charge, entertainment, food, and beverages shall be present during the event.

(f) The person authorized by this section to provide, free of charge, entertainment, food, and beverages shall have sole responsibility for providing payment for the entertainment, food, beverages, and rental fees at the event. Payments for entertainment, food, beverages, and rental fees shall not exceed fair market value. No other licensed person shall be authorized, under this section, to provide any portion of these payments.

(g) Requests for attendance at the event shall be by invitation sent to consumers over 21 years of age at a specific address via mail or e-mail, by telephone, or presented in person. Invitations or other advertisements of the event shall not be disseminated by any other means. Invitations shall not be sent by the authorized person or their authorized unlicensed agent inviting all of the employees of a retail licensee or a chain of retail licensees under common ownership to an authorized event.

(h) Attendance at the event shall be limited to consumers who receive and accept an invitation to the event. Invited consumers may each invite one guest. All attendees shall be over 21 years of age. The total number of consumers and their guests allowed at any event authorized by this section shall not exceed 400 people. Admittance to the event shall be controlled by a list containing the names of consumers who accepted the invitation and their guests. The persons identified in this section shall be responsible for compliance.

(i) No premium, gift, free goods, or other thing of value may be given away in connection with the event, except as authorized by this division.

(j) The duration of any event authorized by this section shall not exceed four hours.

(k) (1) A person authorized to conduct events pursuant to this section shall not conduct more than 12 events in a calendar year where the consumers and guests in attendance exceed 100 people, and not more than 24 events in a calendar year where the consumers and guests in attendance is 100 people or fewer.

(2) The limitation on events authorized by this section shall be by person, whether that person holds a single license or multiple licenses. If a person holds multiple licenses, the limitation shall be applied to the person holding the license, not by type of license.

(l) When applying for a caterer's permit authorization, the person authorized to conduct an event pursuant to this section shall include, in addition to any information required by the department, all of the following information:

- (1) The name of the company authorized to conduct the event.
- (2) The number of people planned to be in attendance.
- (3) The start and end times for the event.
- (4) The location of the event.

(m) All alcoholic beverages provided pursuant to this section shall be purchased from the holder of the caterer's permit.

(n) All alcoholic beverages served at an event authorized by this section shall be served in accordance with Sections 25631 and 25632.

(o) No person authorized to conduct an event pursuant to this section shall hold such an event at the same location more than eight times in a calendar year.

(p) The person authorized to conduct an event under this section may provide attendees at the event with a free ride home. The free rides shall only constitute free ground transportation to attendees' homes or to hotels or motels where attendees are staying.

(q) In addition to the prescribed fee imposed upon a licensed caterer to conduct an event authorized by this section, the department may also impose a fee upon a licensee authorized by this section to provide, free of charge, entertainment, food, and beverages at an authorized event. The fee shall be representative of the cost of administering and enforcing the provisions of this section, but shall not exceed two hundred dollars (\$200) per event.

(r) The Legislature finds and declares both of the following:

(1) That it is necessary and proper to require a separation between manufacturing interests, wholesale interests, and retail interests in the production and distribution of alcoholic beverages in order to prevent suppliers from dominating local markets through vertical integration and to prevent excessive sales of alcoholic beverages produced by overly aggressive marketing techniques.

(2) Any exception established by the Legislature to the general prohibition against tied interests must be limited to the express terms of the exception so as to not undermine the general prohibitions.

(s) This section shall remain in effect until January 1, 2014, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2014, deletes or extends that date.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of

Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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